

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 6, 2002**

**A. CALL TO ORDER / ROLL CALL**

The Regular City Council meeting of November 6, 2002 was called to order by Mayor Pennino at 7:02 p.m.

Present: Council Members – Hitchcock, Howard, Land, Nakanishi (arrived at 7:45 p.m.), and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

**B. INVOCATION**

The invocation was given by Ken Owen, Director of Christian Community Concerns.

**C. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Pennino.

**D. AWARDS / PROCLAMATIONS / PRESENTATIONS**

D-1 (a) Following introduction by Community Improvement Manager Joseph Wood, Mayor Pennino presented the Community Improvement Award to Richard Chiurazzi for the improvements he has made to the property located at 310 S. Ham Lane.

D-2 (a) Mayor Pennino presented a proclamation to Chris Wied, representing Central Valley Waste Services, proclaiming Friday, November 15, 2002 as "America Recycles Day" in the City of Lodi. Ms. Wied reported that during the period of January 1 through October 31, 4,527 tons of recycling material has been received by the City of Lodi. The annual Coats and Cans at the Curb event will be held December 3 – 6. Guild Cleaners has again agreed to clean all the coats and blankets that are donated. Last year 500 coats, 86 blankets, and two-thirds of a ton of canned goods were collected.

D-3 (a) "Presentation of Certificate of Recognition to Linda Tice of Laidlaw Transit Services, Inc., for 20 years of outstanding service" was ***pulled from the agenda pursuant to staff's request.***

D-3 (b) "Presentation regarding the Lodi Adopt-A-Child Christmas Program" was ***pulled from the agenda.***

D-3 (c) Steve Dutra, Parks Superintendent, described the history and requirements of the Certified Playground Safety Inspector program. Mayor Pennino presented a certificate to Larry Moore who is responsible for the Parks division's playground inspection and repair program.

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**E. CONSENT CALENDAR**

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Hitchcock second, approved the following items hereinafter set forth **except those otherwise noted** by the vote shown below:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Pennino

Noes: Council Members – None

Absent: Council Members – Nakanishi

E-1 Claims were approved in the amount of \$7,192,107.32.

E-2 The minutes of October 15, 2002 (Shirtsleeve Session), October 16, 2002 (Regular Meeting), October 22, 2002 (Shirtsleeve Session), October 22, 2002 (Special Meeting), October 29, 2002 (Shirtsleeve Session), October 29, 2002 (Special Meeting), and November 5, 2002 (Shirtsleeve Session) were approved as written.

- E-3 "Accept the quarterly report of the City of Lodi pooled money investment account as required by SB564" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-4 "Adopt resolution approving the City of Lodi's annual investment policy and internal control guidelines" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-5 Approved the plans and specifications for Fire Station 3 Reroof, 2141 South Ham Lane, and authorized advertisement for bids.
- E-6 Approved the specifications for Maintenance of Landscape Areas for 2003, authorized advertisement for bids, and authorized the City Manager to award the contract.
- E-7 Approved specifications for the purchase of 384 solid-state watt-hour meters and authorized advertisement for bids.
- E-8 Adopted Resolution No. 2002-213 rejecting the two apparent lowest bids as non-responsive, and awarding the purchase of 21,000 feet of #2 jacketed 15kV underground conductor to the lowest responsive bidder, Western States Electric, of Portland, Oregon, in the amount of \$16,088.15.
- E-9 "Adopt resolution awarding the bid for Parks and Recreation Tabloid booklet printing services to the low bidder, Commerce Printing Services, of Sacramento (\$6,939.10)" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-10 Accepted improvements under the "Lodi Library Community Room/Lobby Upgrade" contract.
- E-11 "Authorize the City Manager to execute lease amendment for Lodi Station North Annex with Cheryl Lafebre, dba Lodi Greyhound and Western Union" was **pulled from the agenda pursuant to staff's request.**
- E-12 "Approve sublease agreement between Robert Mondavi Properties, Inc., and the City of Lodi for Well 10C site (790 North Guild Avenue); and approve plans and specifications and authorize advertisement for bids for the Well 10C drilling, and pump and motor installation; and authorize the City Manager to award the contract" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-13 Adopted Resolution No. 2002-214 approving the established overall annual Disadvantaged Business Enterprises (DBE) goal of 8% for federal fiscal year 2002/03, and authorized the City Manager to execute such adoption to facilitate timely submission to the California Department of Transportation (Caltrans) for funding authority approval on behalf of the City of Lodi.
- E-14 Set public hearing for November 20, 2002 to consider unmet transit needs in Lodi.
- E-15 Set public hearing for November 20, 2002 to consider the reallocation of Community Development Block Grant/HOME funds.

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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider adoption of the 2001 California Building, Plumbing, Mechanical, Electrical, and Fire Codes.

Jerry Herzick, Building Official, explained that the model building codes are updated and published every three years. State agencies make amendments and then they are published as California Codes. State law mandates that a city enforce the codes 180 days after publication. If not adopted by a jurisdiction they become effective by default. A city may amend the codes to be more restrictive if justified by unique local conditions. Mr. Herzick reported that no fee increases are being proposed. A master plan procedure for repetitive submittals is recommended. The procedure includes a surcharge on the first submittal and a fee reduction on subsequent submittals. The fees recommended will adequately cover Community Development's cost for plan check services. Master plans will expire upon the tri-annual adoption of the new codes. Staff has attempted to notify all affected parties. An informal meeting was held on October 2 at the Carnegie Forum. Notification of the meeting was published in the Lodi News-Sentinel and notices were available at the front counter of the Community Development Department. Packets describing the major code changes were available at the counter since September 23. The code changes and master plan policy were also discussed at the Building Inspection Division monthly meeting on October 30.

Verne Person, Fire Marshal, noted that an addition was made to the Fire Code for a contract inspector to be used when the department has no technical expertise available to conduct required inspections. In answer to Council Member Howard, he reported that the cost would be industry standard.

Council Member Howard suggested that when the need does arrive, that the department send a memo to Council informing them when an inspector is needed and how many hours it is anticipated to take.

At the request of Mayor Pro Tempore Hitchcock, Fire Marshal Person reviewed the changes to Lodi Municipal Code Chapter 15.20, Fire Code, as delineated in strikeout (deleted language) and underline (added language) on the draft ordinance presented with the staff report.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, introduced the following ordinances by the vote shown below:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Pennino

Noes: Council Members – None

Absent: Council Members – Nakanishi

- Ordinance No. 1719 entitled, "An Ordinance Adopting The '2001 California Building Code,' Volumes 1, 2, And 3, Which Code Regulates The Design, Construction, Quality Of Materials, Use And Occupancy, Location, And Maintenance Of Buildings Or Structures In The City Of Lodi, Providing For The Issuance Of Permits And Collection Of Fees Therefore; Providing Penalties For The Violations Thereof; Repealing And Re-Enacting Sections 15.04.010, 15.04.020, 15.04.030, 15.04.040, 15.04.050, 15.04.055, 15.04.060, 15.04.070, 15.04.080, And 15.04.090 Inclusive Of The Code Of The City Of Lodi, And All Other Ordinances And Parts Of Ordinances In Conflict Therewith";

- Ordinance No. 1720 entitled, "An Ordinance Adopting The '2001 California Plumbing Code' Providing For The Establishing Of Minimum Regulations For The Installation, Alteration, Or Repair Of Plumbing And Drainage Systems And The Inspection Thereof; Providing Penalties For The Violations Thereof; And Repealing And Re-Enacting Sections 15.02.010 Through 15.12.050 Inclusive Of The Code Of The City Of Lodi, And All Other Ordinances And Parts Of Ordinances In Conflict Therewith";
- Ordinance No. 1721 entitled, "An Ordinance Adopting The '2001 California Mechanical Code,' Which Code Provides Regulations Controlling The Design, Construction, Installation, Quality Of Materials, Location, Operation, And Maintenance Of Heating, Ventilating, Comfort Cooling, Refrigeration Systems, Incinerators, And Other Heat Producing Appliances In The City Of Lodi, Providing For The Issuance Of Permits And Collection Of Fees Therefore; Providing Penalties For The Violations Thereof; And Repealing And Re-Enacting Sections 15.08.010, 15.08.020, 15.08.030, 15.08.040, and 15.08.050 Inclusive Of The Code Of The City Of Lodi, And All Other Ordinances And Parts Of The Ordinances In Conflict Therewith";
- Ordinance No. 1722 entitled, "An Ordinance Adopting The '2001 California Electrical Code,' Which Code Regulates The Installation, Alteration, Or Addition Of Electrical Wiring, Devices, Appliances, Or Equipment In The City Of Lodi; And Repealing And Re-Enacting Sections 15.16.010 Through 15.16.050 Of The Codes Of The City Of Lodi, And All Other Ordinances And Parts Of Ordinances In Conflict Therewith"; and
- Ordinance No. 1723 entitled, "An Ordinance Adopting That Portion Of The State Building Standards Code That Imposes Substantially The Same Requirements As Are Contained In The Uniform Fire Code, 2000 Edition Published By The Western Fire Chiefs Association And The California Building Standards Commission With Errata, Together With Those Portions Of The 'Uniform Fire Code 2000 Edition,' And The Appendixes I-A, I-C, II-A, II-B, II-C, II-D, II-E, III-A, III-B, III-C, III-D, IV-A, IV-B, V-A, VI-A, VI-B, VI-C, VI-D, VI-G, VI-H, VI-I, VI-J, VI-K, The Uniform Fire Code Standards, '1997 Edition' As Amended By The 'Uniform Fire Code Standards, 2000 Edition,' Published By The Western Fire Chiefs Association, Not Included In The State Building Standards Code, As Modified And Amended By This Chapter, Are Adopted By This Reference Into This Chapter, And Are Hereby Collectively Declared To Be The City Of Lodi Fire Code Thereto, Which Code Provides Regulations Governing The Conditions Hazardous To Life And Property From Fire Or Explosion; Repealing And Reenacting Sections 15.20.010 Through 15.20.370 Inclusive Of The Code Of The City Of Lodi And All Other Ordinances And Parts Of Ordinances In Conflict Therewith."

NOTE: Council Member Nakanishi arrived at 7:45 p.m.

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider the appeal of Ann Cerney regarding the decision of the Planning Commission to approve a 33-unit low density residential Development Plan and recommend that Council:
- 1) certify Negative Declaration ND-02-05 as adequate environmental documentation for the project on 5.68 acres located at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road, and 2) adopt the 2002 Growth Management Allocations.

Ann Cerney believed that there is not as stringent a reliance on the requirements of the California Environmental Quality Act as there should be. She claimed that whenever there is an issue of whether or not the full documentation is required, the law stipulates that full documentation should be done. She explained that the area in question is the quadrant from Taylor Road to Highway 12 that is bordered on the east by Lower Sacramento Road and is abutted by open space land on the west. All of the documentation on the area was done as a parcel. At the September 12 Planning Commission meeting there were two separate environmental documents. Ms. Cerney stated that if this matter is not handled well, openly, and fully environmentally

documented, then it will result in the last southwest land being opened prematurely. It has been iterated that the greenbelt between Stockton and Lodi is desired as a policy. She believed that if the matter under consideration were before an appellate court there would not be sufficient foundation to support the negative declaration. Ms. Cerney referenced points made in her memorandum to Council (filed) noting that the manner in which it was adopted by the Planning Commission was irregular. First there was a vote against it on the basis that because it was low density rather than high density, there would not be a proper preservation of the prime agricultural land. The Planning Commission appeared to agree that as a policy it did not want to approve a low-density project because it would more rapidly consume the prime agricultural land. Next the Planning Commission, without addressing the fact that it originally expressed concerns about water, soil, premature growth, etc., recommended that Council approve the project and certify the negative declaration. Ms. Cerney reiterated her belief that there was insufficient documentation and urged Council to authorize a full Environmental Impact Report (EIR).

Community Development Director Bartlam stated that the negative declaration was an appropriate environmental document for the project and no evidence has been supported otherwise.

City Attorney Hays pointed out it is the developer's project (not the City's) that is at risk if the Council decided that the negative declaration was sufficient and the matter was later challenged.

Council Member Howard stated that as long as it shows that a significant impact can be mitigated, then a negative declaration is a substantial and appropriate amount of research on a project and she believed this was the case for this property. She noted that whenever a project comes before Council, even in the negative declaration form, it still has the authority to mitigate things, which allows opportunity for communication. She did not believe that this project needed an EIR and considered the negative declaration as sufficient.

Ms. Cerney clarified her concern was that there had never been an EIR on this specific piece of property. The EIR cited in Council's material was done in 1990 and had to do with the General Plan. The property in question was annexed in 1996. Another document referred to in Council's material was an initial study done by Jim Schroeder in 1995 that was associated with the annexation of the entire piece of land, not this specific small parcel. A portion of a portion of a bare piece of land is being opened up for construction, which Ms. Cerney believed to be a significant impact. She asked Council to consider what will happen in the aggregate as a result of this one small project. She saw the City as being in jeopardy on this issue and believed that if other projects continue without the proper scrutiny it would result in litigation.

Mayor Pro Tempore Hitchcock stated that she had the same concerns Ms. Cerney expressed, i.e., that the City may be leading the developer to believe that everything is satisfactory when, in effect, the City should be doing more environmental documentation.

In answer to Mayor Pro Tempore Hitchcock, Ms. Cerney explained that she specifically had an issue with the fact that this was a low density rather than medium density property, as well as concerns related to using prime agricultural land. At the Planning Commission this raised an inconsistency, so the record is very weak to support a negative declaration. Ms. Cerney stated that she raised the growth inducing issue, yet there is no mention of it in the environmental documentation. As a matter of law if something is not mentioned and it is proven to exist, or even raised as an existence, then it is assumed to be true and it would require an EIR. Future impacts need to be considered if a small project is a catalyst. She believed that to be the case in this situation, and as such, it is a mandatory element in the environmental document. Further she stated that it is not checked off, and it is mandatory that it be checked off if it is true.

Council Member Land questioned why the issue of protecting farmland was not raised at the time of the annexation proceedings before the Local Agency Formation Commission.

Ms. Cerney replied that she was not watching at that time, and did not believe that anyone in the community was. She found it difficult to imagine that the property was annexed without an EIR.

Council Member Nakanishi stated that a decision was made previously on this project for low density and he did not believe it would be appropriate to change it now.

Council Member Howard understood Ms. Cerney's concerns as being related to specific zoning. She believed the negative declaration to be sufficient. For each category it is shown in the negative declaration that there is no impact, with only four exceptions, and they are found to be less than significant. The concern that this project will spawn growth in the southern quadrant is a zoning issue. This matter has been addressed in the City's General Plan.

#### Hearing Opened to the Public

- Dale Gillespie, representing the proponent of the project, asked Council to deny the appeal and approve the project. He pointed out that it is the developer's responsibility to defend any legal action that would come as a result of Council's approval and they are fully aware of this and prepared to do so. Over the 11 year history of this property, it was included in the General Plan designated for the use that is now being proposed, the annexation process was completed, and there was a failed attempt to rezone the property four years ago when Council decided that the property should be maintained as low density residential rather than medium. The proposed project meets all the requirements of low density residential and is in compliance with City ordinances. He suggested that if Ms. Cerney wanted to "make an example," she should choose the next submitted project, not one that has followed the history and tradition of the City for the last ten years. He added that projects much larger than this were approved under mitigated negative declarations. There are significant mitigations as a condition of this project and he was confident that the mitigation measures proposed would stand up in a court of law.

Mayor Pennino expressed his opinion that Council made a mistake by not approving the previous rezone and project request, as he believed it was a better project than what is now being proposed.

Mayor Pro Tempore Hitchcock believed that the proposal is a good project, which respects the neighbors that initially expected a certain zoning.

- Leland Frey stated that he has lived on Taylor Road for 50 years. He was opposed to development of the area; however, he believed that in this instance it has now gone too far and is too late to turn back. For this reason he supported the project as presented. He blamed 'the people' for not taking a stand on where to draw the limits of development.

Council Member Land suggested that Mr. Frey also express his opinions to the State elected officials who have mandated a Housing Element Plan.

Community Development Director Bartlam reported that the Plan stipulates that by 2006 39,000 units will be built in the County and 5,000 units will be built in the City of Lodi.

In reply to Council Member Howard, Mr. Bartlam reported that the Planning Commission resolution in the agenda packet outlines the listed conditions, which will apply to the project if the Council affirms the Commission's decision.

#### Public Portion of Hearing Closed

MOTION #1:

Council Member Howard made a motion, Land second, to adopt Resolution No. 2002-215 entitled, "A Resolution Of The Lodi City Council Sustaining The Planning Commission Decision And Certifying The Negative Declaration As Adequate Environmental Documentation For The 27-Lot Subdivision Project Located On 5.68 Acres At The Southwest Corner Of The Intersection Of Lower Sacramento Road And Taylor Road."

DISCUSSION:

Mayor Pro Tempore Hitchcock hoped that this matter would not become a "test case" by being challenged, because the developers have followed all of the City's requirements. She agreed with Mr. Frey regarding setting limits for development and believed that the Council should take a firm stand on it and get the greenbelt decided irregardless of what the State is telling the City to do.

VOTE:

The above motion carried by a unanimous vote.

MOTION #2 / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Land second, unanimously adopted Resolution No. 2002-216 entitled, "A Resolution Of The Lodi City Council Approving The 2002 Growth Management Allocations."

- G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider the Planning Commission's recommendation of approval to the City Council for a General Plan Amendment and Rezoning for 1243, 1301, 1335, and 1477 East Harney Lane; the General Plan Amendment is from PR, Planned Residential to LDR, Low Density Residential, and the Rezoning from San Joaquin County AU-20 to R-2, Single Family Residential; the request also includes a recommendation that the City Council certify Negative Declaration ND-02-04 as adequate environmental documentation for the project; and to initiate annexation of the properties into the City of Lodi.

Community Development Director Bartlam explained that this is a set of actions required to annex the property into the City. The property is along Harney Lane and surrounded on three sides by the City limits of Lodi. To the west is the Luckey property, which was approved last year and has gone through the allocation and subdivision map process. To the north is Century Meadows 4, which is under construction. To the east, bounding Mills Avenue, is Century Meadows 2. This annexation request, General Plan, and zone requirement is over four separate pieces of property comprising 28 acres. Following the recommended actions tonight, the next step in the process would be an application to the Local Agency Formation Commission.

Mayor Pennino asked if this will help to accomplish the City's need of more first-time homebuyer homes in the community.

Mr. Bartlam replied that it is the property owner's intent to mirror the same type of development surrounding the site. The lots will be identical in size and shape to what is in the north and northeast areas.

Mayor Pennino asked how the City could start planning for condominium and zero lot line projects.

Mr. Bartlam replied it should be done proactively on appropriate sites. There is some potential on the Zunino, Van Ruiten property, which is addressed under Item G-4. There are 40 acres north of Century Boulevard that affords a large degree of opportunity to do a mix of housing types both in terms of price and density. Also on Harney Lane near Highway 99 there is an excellent opportunity to do a variety of housing density.

Mayor Pro Tempore Hitchcock did not want Lodi to build out with all small lots. She recalled that when she served on the Planning Commission it was quite common to do a combination of R1 and R2. She favored having more open, green space.

Mr. Bartlam did not believe it would be appropriate to have larger lots surrounded by smaller lots. He suggested that the 50-acre Perlegos property northwest of the Raley's supermarket would be ideal for larger lot development. He explained that to get more open, green space it would be a matter of development standards not zoning. In higher density development open space can be designed around the units. He asserted that at some point the City needs to determine whether it wants to protect farmland or not. It is not protected by building out 8,000 and 10,000 square foot single-family detached lots.

Mayor Pro Tempore Hitchcock recalled that during a previous matter, a developer had argued that it could not include green space unless it had R2 lots, which Council agreed to on that basis; however, it never materialized. The homes built were larger, which took up the extra lot space.

Mr. Bartlam reiterated that it is an issue of development standards, such as setback requirements. The meaning of open or green space needs to be defined. Currently developers are providing it through their park impact fees.

Council Member Howard agreed with Ms. Hitchcock's comments related to maintaining an overall balance of R1 and R2 lot sizes. She pointed out that Council can request that the lots be larger such as was done with the Luckey, Lackyard project, which will have larger yard sizes.

#### Hearing Opened to the Public

- Terry Piazza introduced himself as the engineer for the project. He explained that by requesting R1 zoning they are not requesting all 5,000 square foot lots. By requesting R2 zoning they are requesting some flexibility. He noted that one of the major routes for buses from the school will be through this property out to Mills Avenue. This project is to complete an infill program and they intend to do it in a method that Council previously approved for the adjacent lots.

Mayor Pro Tempore Hitchcock asked why parcel 1443 was not being brought into the City.

Mr. Bartlam explained that the initial request for annexation came from the two larger properties with frontage on Harney Lane and the Lackyard home on Mills Avenue and Harney Lane. When the request came in staff contacted the property owner of parcel 1443 and he did not express an interest to participate in the annexation. The north side of Harney Lane will be improved whether this property is in the City or not. The developer would be required to take care of that as part of the project.

Mayor Pro Tempore Hitchcock inquired whether the developers would be required to place a traffic signal at the corner of Lower Sacramento Road and Harney Lane or at the intersection of Mills Avenue and Harney Lane.

Referring to the intersection of Lower Sacramento Road and Harney Lane, Public Works Director Prima replied that a signal is planned as part of the County project, which includes a road realignment.

Mr. Bartlam explained that when the tentative map is submitted, staff will determine through traffic studies whether a signal at the intersection of Mills Avenue and Harney Lane is warranted. If so, it will be installed as part of the project and the developer would get a fee credit on their traffic impact requirements.

#### Public Portion of Hearing Closed



MOTION:

Council Member Howard made a motion, Nakanishi second, to take the following actions:

- Introduce Ordinance No. 1724 entitled, "An Ordinance Of The Lodi City Council Amending The Official District Map Of The City Of Lodi And Thereby Rezoning The Parcels Located At 1243, 1301, 1335, And 1477 East Harney Lane (APN 058-230-14, 13, 22, And 21) From San Joaquin County AU-20 To R-2, Single Family Residential";
- Adopt Resolution No. 2002-217 entitled, "A Resolution Of The Lodi City Council Amending The Land Use Element Of The Lodi General Plan By Redesignating The 28.15 Acres Located At 1243, 1301, 1335, And 1477 East Harney Lane (APN 058-230-14, 13, 22, And 21) From PR, Planned Residential To LDR, Low Density Residential"; and
- Adopt Resolution No. 2002-218 entitled, "A Resolution Of The Lodi City Council For Application To The San Joaquin County Local Agency Formation Commission In The Matter Of The Lackyard Annexation, Including The Detachment Of Certain Territory Within The Area Proposed For Annexation To The City Of Lodi."

DISCUSSION:

Mayor Pro Tempore Hitchcock stated that she would vote in favor of the project, but would vote against it if the plan comes back with all R2 lots.

Mayor Pennino asked whether the Local Agency Formation Commission (LAFCO) could require that parcel 1443 be included.

City Attorney Hays replied that LAFCO does have the authority to include the parcel in the annexation, as does the Council.

Mayor Pennino suggested that a letter be sent to the property owners of parcel 1443 encouraging them to be included in the annexation.

Council Member Land warned that if LAFCO made a recommendation to include the parcel, the property owners could protest the entire annexation.

Council Member Howard was opposed to sending a letter to the property owners encouraging them to participate in the annexation, as they had previously been approached on this issue and they made their decision. She noted that when the matter goes before LAFCO they will be offered another opportunity to participate.

Council Member Nakanishi agreed with Ms. Howard indicating that it would be unfair to impose something on the property owners that they did not ask for.

VOTE:

The above motion carried by a unanimous vote.

- G-4 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider the Planning Commission's recommendation of approval to the City Council for an Annexation, General Plan Amendment, and Rezoning for 13814 Lower Sacramento Road and a four-acre portion of 302 East Highway 12; the General Plan Amendment for 13814 Lower Sacramento Road is from PR, Planned Residential to LDR, Low Density Residential, and the rezoning from R-VL (County), Residential Very Low Density to R-LD, Residential Low Density; the General Plan Amendment for 302 East Highway 12 is from PR, Planned Residential to PQP, Public/Quasi Public, and the rezoning from AU-20 (County), Agriculture-Urban Reserve to PUB, Public; the request also includes a recommendation that the City Council certify Negative Declaration ND-02-07 as adequate environmental documentation for this project.

Community Development Director Bartlam reported that there are two separate pieces of property, completely unrelated in terms of their ownership and use, that were put together in this action for ease of processing. The first parcel is located on Lower Sacramento Road just south of DeBenedetti Park and north of the Sunnyside Estates subdivision located within the County. The property is just less than four acres in size and is owned by the Van Ruiten, Zunino families. It has access to Lower Sacramento Road to the west and is adjacent to the new school on the east. The applicants are requesting the annexation into the City, which has resulted in the General Plan and zoning recommendations before Council. The second piece of property is four acres on west Highway 12, which the City is currently in the process of acquiring for an electric utility substation and water purposes. The property is adjacent to the city limits to the east, but not to the northwest or south.

In reply to Council Member Howard, Mr. Bartlam reported that the Zunino property does not have access to the north or the east, which would likely result in a cul-de-sac. The property can only gain access from the street on which it fronts. There would be a raised median on Lower Sacramento Road that would prohibit access to the left. It would be necessary to make a u-turn at the signalized light that will eventually be placed at Century Boulevard.

Public Works Director Prima added that because there is no street at this point, access has not been designed. Staff will look at the potential for putting in a left turn only arrangement.

#### Hearing Opened to the Public

- Lamar Hedrick expressed concern about aesthetic considerations of the substation and power lines.

Mr. Bartlam reported that the substation would be set back several hundred feet from the street. He explained that the substation is necessary as the City continues to develop the western quadrant. Power lines coming in and out of the station will go south and east to Lower Sacramento Road along the property line between the Reichmuth and Van Ruiten properties. There will not be any new power lines on Kettleman Lane as a result of the substation.

- Dave Dollinger asked that there be a split in the eventual median on Highway 12 for the benefit of the residents who have property there now. He also inquired about the substation and power lines.

Mr. Bartlam explained that the design of Highway 12 will be a Caltrans decision. In addition he reported that the City has a requirement that electrical power lines in residential areas be underground. This will be the case for the lines coming out of the substation. The substation is not necessary for either of the commercial developments; it is for the eventual development of 750 acres north and south of Kettleman Lane.

- Ann Cerney pointed out that the substation is nearly the exact circumstance as one of the cases she cited in her memorandum to Council regarding Item G-2. She stated that the City is again doing a negative declaration when it should do an EIR.

In answer to questions posed by Mayor Pro Tempore Hitchcock, Mr. Bartlam explained the properties are being presented under the same item because it is one General Plan amendment affecting two parcels and it saves on LAFCO fees, as it requires only one application. The City does not pre-designate the General Plan owned properties. In response to Ms. Cerney, he stated that the environmental document done for the General Plan is absolutely substantial in terms of environmental review for these properties. In reference to the substation, the environmental document before Council is for the property itself. When the time comes to review the project, a more formal environmental review specific to the project itself will be done. The master EIR does anticipate that a substation would be built within the General Plan limits.

Council Member Nakanishi asked what the cost would have been of doing an EIR on every project over the past four years, to which Mr. Bartlam reported it would have been in the millions of dollars.

Council Member Howard inquired at what point there could be further discussion or mitigation regarding the turn lane on Lower Sacramento Road. Mr. Prima replied that there would be two opportunities: 1) at the time of the design of the Lower Sacramento Road project; and 2) when the tentative map is considered.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Nakanishi second, unanimously took the following actions:

- Introduced Ordinance No. 1725 entitled, "An Ordinance Of The Lodi City Council Amending The Official District Map Of The City Of Lodi And Thereby Rezoning The Parcel Located At 13814 Lower Sacramento Road (APN 058-230-03) From R-VL (County), Residential Very Low Density To R-LD, Residential Low Density; And Further Rezoning A Four-Acre Portion Of 302 East Highway 12 (APN 058-030-07) From AU-20 (County), Agriculture-Urban Reserve To PUB, Public";
- Adopted Resolution No. 2002-219 entitled, "A Resolution Of The Lodi City Council Amending The Land Use Element Of The Lodi General Plan By Redesignating The 4.0 Acre Portion Of 302 East Highway 12 (APN 058-230-03) From PR, Planned Residential To PQP, Public/Quasi Public, And Further Redesignating 3.92 Acres Located At 13814 Lower Sacramento Road From PR, Planned Residential To LDR, Low Density Residential"; and
- Adopted Resolution No. 2002-220 entitled, "A Resolution Of The Lodi City Council For Application To The San Joaquin County Local Agency Formation Commission In The Matter Of The Van Ruiten & Zunino Annexation, Including The Detachment Of Certain Territory Within The Area Proposed For Annexation To The City Of Lodi."

RECESS

At 9:38 p.m., Mayor Pennino called for a recess and the City Council meeting reconvened at 9:48 p.m.

H. COMMUNICATIONS

- H-1 Claims filed against the City of Lodi – None
- H-2 The following report was presented to the City Council:
  - a) Planning Commission report of October 23, 2002
- H-3 Appointments – None
- H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-1 "Adopt resolution amending traffic resolution 97-148 by approving traffic control modifications resulting from neighborhood traffic study in the area bounded by Ham Lane, Hutchins Street, Lodi Avenue, and Elm Street"

Paula Fernandez, Senior Traffic Engineer, announced the names of the focus group and thanked them for their participation. She reported that ten intersections were evaluated in a study area bounded by Elm Street, Hutchins Street, Lodi Avenue, and Ham Lane. She explained that the focus group was comprised of residents in the neighborhood. After three meetings the focus group decided on preliminary recommendations, which were sent out to all the residents in the area and a public meeting was held to discuss them. Staff received 40 written responses. The neighborhood goals were to reduce speeding and accidents, improve pedestrian safety and visibility, and increase enforcement. Staff collected speed data, traffic volumes, and did safe approach studies. The following measures were implemented:

- Oak Street and Crescent Avenue – larger stop signs were installed;
- Pine Street and Crescent Avenue – “cross traffic does not stop” and larger stop signs were installed and crosswalks were removed because they led drivers to believe it was a four-way stop;
- Pine and California Streets – larger stop signs were installed; and
- Hutchins and Oak Streets – “cross traffic does not stop” signs were installed.

Recommendations include:

- Ham Lane and Walnut Street – right turn restriction; Ms. Fernandez noted that this recommendation would be brought back for Council consideration once staff has received input from the residents;
- Crescent Avenue and Walnut Street – multi-way stop;
- Oak Street intersections of Sunset, Orange, Avena, and Rose – change yield signs to two-way stops (on the north, south streets); and
- Hutchins and Oak Streets – crosswalk realignment.

Council Member Land commended staff for getting community input. He reported that he has received many complaints from residents near Mills Avenue and Shady Acres Drive regarding vehicles going into the bike lane due to excessive speed on the curved road.

MOTION/ VOTE:

The City Council, on motion of Council Member Land, Nakanishi second, unanimously adopted Resolution No. 2002-221 amending traffic resolution 97-148 by approving traffic control modifications resulting from neighborhood traffic study in the area bounded by Ham Lane, Hutchins Street, Lodi Avenue, and Elm Street.

- I-2 “Adopt resolution approving Lodi Adopt-A-Child’s request for a \$100,000 loan from the City of Lodi”

Deputy City Manager Keeter reported that Council previously agreed to lease the building at 100 E. Pine Street to Lodi Adopt-A-Child for ten years at one dollar per year. It also agreed to remove asbestos from the building, replace the roof, conduct a pest control clearance, provide a structural analysis, and other miscellaneous work. The City’s investment in the building thus far is approximately \$105,000. Lodi Adopt-A-Child has identified a three-phase project renovation. It will need \$227,000 for the improvements. It has raised \$100,000 and anticipates bringing in \$27,000 more by the end of the year. Lodi Adopt-A-Child is now requesting that the City loan it the balance of \$100,000 that will enable it to complete the majority of the improvements to the building. The terms of its proposed loan include a ten-year term, interest only with principal reduction at maturity, and \$10,000 annual principal reduction payment every January.

In answer to Council Member Howard’s suggestion for the City to secure the loan, City Attorney Hays explained that the City acting as a guarantor for a loan is not appropriate. It violates constitutional prohibitions of lending the City’s full faith and credit. It is only allowed under redevelopment agency law. A bank could not encumber the property either, because if there was a foreclosure the public would lose its property.

Mayor Pro Tempore Hitchcock asked whether there was Community Development Block Grant (CDBG) money available, which could be reallocated toward the Lodi Adopt-A-Child building renovation project.

Joseph Wood, Community Improvement Manager, reported that there are no unallocated CDBG funds available. He suggested that it be considered in next year’s cycle, which starts in December. A public hearing would be scheduled for March and funds become available in September 2003. He noted that one of the criteria for approving projects for CDBG funds was timeliness and they are all anticipated to be completed no later than May 2003. CDBG funds were allocated to City projects such as the Lodi Lake bike path, handicap ramp projects, and a number of Parks and Recreation projects.

Council Member Nakanishi suggested that the City allocate \$10,000 every year to Lodi Adopt-A-Child and it could then pay it back.

Council Member Land recalled that the Request for Proposal (RFP) submitted by Lodi Adopt-A-Child on February 6, 2002 stated, "a local bank has indicated a willingness to discuss a loan of approximately \$200,000; however, a lease must be in place first." He asked where the two guarantees were that were mentioned in the RFP. He voiced concern about the fact that the loan has not materialized, which Lodi Adopt-A-Child stated in the RFP it would have in two months. Another organization had also vied for the building and it already had funds in the bank for the building's renovation. Council's decision about who to lease the building to was based on the RFPs submitted. He agreed that CDBG funds might be a possible solution for this situation. In addition, he recalled that Lodi House, a local non-profit organization, was provided a loan from a bank based on a letter from the City Manager stating that the City would consider CDBG fund allocations over the next four years. He suggested that this be done for Lodi Adopt-A-Child and used as collateral for financing. He preferred that the City not compete with a private business by providing a loan to Lodi Adopt-A-Child.

Mr. Wood explained that using CDBG funds for acquisition of property (as was the case with Lodi House) is entirely different from making improvements to property. CDBG funds cannot be granted to an organization if the improvements have already been made to the property. Once funds are allocated there are prevailing wage and labor standard issues and a bid process is required. This is where difficulties arise when attempting to guarantee block grant funds for rehabilitation work.

Council Member Howard asked whether there was any concern about Lodi Adopt-A-Child not qualifying for CDBG funding because of its association with the Boy Scouts program.

Mr. Wood acknowledged that organizations associated with certain groups, including the Boy Scouts of America, are not eligible to receive federal funds.

Mayor Pennino noted that Lodi Adopt-A-Child's request would be for renovating a City building, which is unrelated to programming.

City Manager Flynn reported that there is \$3.6 million in the fund balance of the General Fund.

Mayor Pro Tempore Hitchcock indicated that it appeared there were unnecessary difficulties being made toward Lodi Adopt-A-Child and pointed out that the City had not treated the Hutchins Street Square Foundation similarly when it requested money to improve the City's building. She recommended that CDBG funds allocated for a City project, that has not yet been completed, be reallocated to Lodi Adopt-A-Child.

Council Member Land recalled that one of the reasons the building at 100 E. Pine was available for lease was because the City was looking for a tenant that had funding in place to do necessary renovations, which was not the case with Health For All (the previous tenant). Council leased the building to Lodi Adopt-A-Child over another organization based on the RFP that was submitted, which included a statement that it would have the necessary funding for repairs.

Mayor Pro Tempore Hitchcock acknowledged that she did not base her decision on the terms presented in the RFP, she based it on the organization and what it brought to the City.

Council Member Land believed that Council's decision about which organization to provide the lease to would have been different if Lodi Adopt-A-Child had presented a proposal indicating that it wanted a ten-year lease for \$10 dollars, and were going to ask that the City put an additional \$105,000 into building repairs, and in addition, ask for a \$100,000 loan.

Council Member Howard stated that the City's contribution toward the building repairs were all worthwhile and would have taken place regardless of the organization who leased it. She believed the discrepancies in Lodi Adopt-A-Child's grant proposal were due to inexperience, not intentional deceit.

Mayor Pennino was adamantly opposed to a loan; however, he believed it to be an excellent project for CDBG funding. Addressing Dennis Lewis, he stated that he spoke with one of Lodi Adopt-A-Child's major contributors today and was told that four or five people had offered last June to guarantee a loan for the organization. He suggested that Lodi Adopt-A-Child accept the offer and get a loan through a private institution and the City will review the possibility of paying it off through CDBG funding.

PUBLIC COMMENTS:

- Dennis Lewis reported that each bank that returned Lodi Adopt-A-Child's inquiries for a loan said it would be better off seeking either a loan from the landlord for the needed repairs or permission to hypothecate the property to guarantee a loan. The Bank of Lodi is willing to initiate a \$100,000 loan if the City would be willing to allow the property to be used to guarantee the loan. Lodi Adopt-A-Child would pledge to repay the loan at a minimum of \$600 per month toward interest and principal reduction at \$10,000 each January beginning in 2004. Mr. Lewis stated that if he died the day the building repairs were completed, and no one came forward to pay the loan as promised, the property would still retain its value. In answer to Council Member Land's concerns, Mr. Lewis explained that he had never written a grant proposal before and he had inadvertently omitted the word "payment" to follow the words "guarantee our loan."
- Robina Asghar spoke in support of Mr. Lewis and Lodi Adopt-A-Child. She stated that she has a great deal of respect for him and the difference he has made in children's lives and the community.

In response to Mayor Pro Tempore Hitchcock's suggestion to reallocate CDBG funds from a City project, Mayor Pennino voiced his opposition to the proposal, as he believed the Parks and Recreation projects that are in the planning process should not be delayed.

Mr. Wood explained that there are restrictions regarding City-owned facilities when applying for CDBG funds. The Department of Housing and Urban Development regulations are specific that funding is not to be used for city facilities for the conduct of government business. He stated that the only thing eligible would be handicap accessibility accommodations, or a facility such as the library where services are provided to the public. When block grant funds are used it is necessary to track the use of the building for a period of five years after the funds are received.

MOTION #1:

Council Member Howard made a motion to adopt a resolution approving Lodi Adopt-A-Child's request for a \$100,000 loan from the City of Lodi. The motion **died** for lack of a second.

MOTION #2:

Mayor Pro Tempore Hitchcock made a motion, Land second, to direct staff to evaluate options to utilize Community Development Block Grant funds for repayment or funding of \$100,000 as requested by Lodi Adopt-A-Child to complete the building renovation project at 100 E. Pine Street and return to Council with recommendation(s) at the next regularly scheduled City Council meeting.

DISCUSSION:

Council Member Nakanishi agreed with Mr. Land's earlier comments and stated that he too would have chosen the other organization had he known that Lodi Adopt-A-Child would be asking for a loan to complete the building renovation. He noted, however, that Lodi Adopt-A-Child has many volunteers and contributes a great deal to the area's underprivileged children. He believed this leads to a decrease in juvenile delinquency and keeping the streets of Lodi safe. For this reason, he would have supported the motion for the loan if seconded and will support the current motion.

VOTE:

The above motion carried by a unanimous vote.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Land, Howard second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

I. REGULAR CALENDAR (Continued)

- I-3 "Adopt resolution approving Salvation Army's request for a \$50,000 payment to help fund the new homeless shelter" was ***pulled from the agenda pursuant to the written request of Pat Patrick, Chairman of the Salvation Army's Capital Campaign Drive*** (filed).
- I-4 "Adopt resolution providing financial support for San Joaquin County's Recycling Market Development Zone (\$1,533 per year)"

Council Member Land recalled that he had pulled this item from a previous agenda, as he had concerns regarding accountability and what benefits the City would derive from participation.

Tom Horton, representing San Joaquin County Solid Waste Management Division, reported that in 1990 the legislature passed a law stipulating that Recycling Market Development Zones could be established that provide incentives for businesses that used recycled materials to locate within the zone. In 1994 the County and each of its cities adopted resolutions supporting their involvement. Mr. Horton stated that a task force has the oversight of the Recycling Market Development Zone. The Board of Supervisors is the lead agency. The County Solid Waste office is responsible for the staff support of the task force. The Technical Advisory Planning Committee to the task force is made up of Solid Waste planners from each of the cities, who discuss common regional solid waste problems. It was proposed that the cities and county hire a zone administrator who has experience in working with businesses and bringing them into the community. Frank Ferral, Business Development Specialist, from the Greater Stockton Chamber of Commerce agreed to serve as the zone administrator. An agreement between the Greater Stockton Chamber of Commerce and the County was prepared, which specifies that the zone administrator reports regularly back to the task force and planning committee and will work with the community development departments within the cities and the county. The task force has reviewed this recommendation, approved it, and recommended that cities and the board contribute based on a percentage of population. Frank Ferral has been helpful in bringing projects to the Lodi area. Four businesses in the Lodi area have received loans or assistance from the Recycling Market Development Zone. The zone administrator is required to prepare a detailed report on an annual basis that goes to the Waste Board. In addition to the loan guarantee, businesses can receive technical assistance from the State, as well as permitting and streamlining. Local jurisdictions can also receive funding through the State Recycling Market Development Zone program for any infrastructure that is required to support a business that is locating within their jurisdiction. The cities and county contributions go toward a portion of the zone administrator's salary.

MOTION:

Council Member Land made a motion, Nakanishi second, to adopt Resolution No. 2002-222 providing financial support for San Joaquin County's Recycling Market Development Zone in the amount of \$1,533 per year.

DISCUSSION:

Council Member Howard stated that she would be voting no on this matter. She explained that the City of Lodi participates with a number of recycling efforts and does a very good job at recruiting businesses to the community. She saw this as precedence setting and believed it to be redundant to other services and organizations already in place that are providing many of the same opportunities and goals.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Land, Nakanishi, and Mayor Pennino

Noes: Council Members – Howard

Absent: Council Members – None

- I-5 "Approve plans and specifications and authorize advertisement for bids for Phase II of the Lodi Lake Handicap-Accessible Pedestrian/Bicycle Corridor Project, 1101 W. Turner Road"

Parks and Recreation Director Baltz recalled that this project was brought to Council approximately a year ago, at which time Council authorized staff to go out to bid. The original funding package for the project did not work out. The project is for an additional 2,200 linear feet to extend the trail. The funding mechanism now involves \$30,000 from the Street Lighting Program, \$140,000 from Measure K funds, \$208,239 from CDBG funds, and \$60,000 from Parks and Recreation small capital projects funds. The estimated cost of the project is just over \$400,000.

Council Member Howard commented that the main reason this project is eligible for CDBG funding is the handicap accessibility aspect.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously approved the plans and specifications for Phase II of the Lodi Lake Handicap-Accessible Pedestrian/Bicycle Corridor Project, 1101 W. Turner Road, and authorized advertisement for bids.

- I-6 "Adopt resolution authorizing the City Manager to execute additional professional services task orders for White Slough Water Pollution Control Facility Discharge Permit compliance activities and appropriate \$1,261,000"

Public Works Director Prima stated that the City needs to move forward on a number of items in order to meet the conditions of the White Slough Water Pollution Control Facility Discharge Permit. Technically the City is not in compliance now because there were some milestones in the permit for activities that are now late in being accomplished. If the tertiary filters design work can begin soon, he believed they could be close to being installed by the final deadline. Funding is being requested for the design work so that the project can go out to bid this coming spring. Referring to the groundwater monitoring efforts in White Slough, Mr. Prima expressed concern about nitrate issues and the need to discover the cause. Originally it was planned to do a two-year data collection and evaluation at the end of that period. After looking at some of the preliminary data and other issues in the area, Mr. Prima recommended that Saracino-Kirby-Snow come back and do a mid-point evaluation of the data on a formal basis and make sure the City is collecting enough data to provide answers. In addition Mr. Prima reported that there is a need for a flow meter in Bishop Cut, continued regulatory work with the board, interim aeration improvements, and completion of the pre-design work on the rest of the secondary plant improvement. Environmental and financial work will result in rate studies that staff will bring back to Council during a series of meetings next year, as well as long-range financial planning related to the Wastewater Utility.



In reply to Mayor Pro Tempore Hitchcock, Mr. Prima reported that the plan work that was started was broken into separate segments. The existing secondary plant needs upgrading to meet permit requirements, as well as the tertiary filters. The discharge point at Dredger Cut needs to be moved to Bishop Cut. A treatment wetland needs to be developed for final treatment after the tertiary filters and to provide storage.

Bruce West, of West Yost Associates, reported that the regulatory staff has been substantially increased over the past two to three years and he did not believe that they would be rescinding any programs in the foreseeable future.

In answer to Council Member Land, City Manager Flynn stated that the fund balance in Wastewater is adequate to cover these costs. Mr. Prima noted that when it comes time to begin construction next spring, the cost of \$15 to \$17 million would need to be financed.

Council Member Land suggested that public forums beginning early next year be conducted to discuss potential rate increases.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously adopted Resolution No. 2002-223 authorizing the City Manager to execute additional professional services task orders for White Slough Water Pollution Control Facility discharge permit compliance activities and appropriated \$1,261,000.

I-7 "Adopt resolution approving City Council Appointee Evaluations Policy and Procedure"

Council Member Howard suggested that Council Appointee evaluations be conducted in March allowing new Council Members an opportunity to work with staff members.

Mayor Pro Tempore Hitchcock recommended that the evaluations be tied into the budget process and be conducted in late March or April of each year.

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Land second, unanimously adopted Resolution No. 2002-224 approving City Council Appointee Evaluations Policy and Procedure.

E-3 "Accept the quarterly report of the City of Lodi pooled money investment account as required by SB564"

NOTE: Due to a potential conflict of interest related to his employment with Farmers and Merchants Bank, Council Member Land abstained from discussion and voting on this matter.

Mayor Pro Tempore Hitchcock noted that if the City diversifies or distributes money based on an institution for safety reasons, it seems that the dollar amount should be more evenly distributed.

Finance Director McAthie reported that the City looks at safety, liquidity, and rates that it gets on returns. Funds were put mainly in the Local Agency Investment Fund (LAIF) because at the time it was paying the highest. When different banks were approached, Farmers and Merchants said it would match the liquidity and rate of return on a \$5 million Certificate of Deposit (CD). Other banks did not want to have that large a dollar amount tied up with the City, due to technicalities on computing interest earned on a government CD. For this reason Farmers and Merchants Bank was chosen. As the maturities came due the interest rate had gone down, and it was decided to mature them rather than rolling them over and they were put back into LAIF.

City Manager Flynn added that when the amount is over \$100,000 the banks have to provide additional guarantees, which takes more work on their part.

Ms. McAthie stated that the City's main checking account is with Farmers and Merchants Bank. By having a CD at the same bank, it allows for the required compensating balances to be lower.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, accepted the quarterly report of the City of Lodi pooled money investment account as required by SB564. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Nakanishi, and Mayor Pennino

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – Land

- E-4 “Adopt resolution approving the City of Lodi’s annual investment policy and internal control guidelines”

Council Member Land requested an addition be made to page 7 specifying that for institutions to participate in a purchase of a CD from the City that they have a Community Reinvestment Act (CRA) rating of satisfactory or better.

Mayor Pennino asked whether this would eliminate any of the current banks the City is doing business with.

Finance Director McAthie reported that the results of an informal survey showed that it would not eliminate any of the current banks. In addition, she checked with the President of the California Municipal Treasurers Association who thought that the added language would be an excellent addition to the City’s policy.

Mayor Pro Tempore Hitchcock suggested that a clause be added about institutions willing to increase the insurance.

Council Member Howard questioned whether there are many banks in the surrounding area or in the county that do not have a satisfactory or better CRA rating.

Ms. McAthie replied that if a bank did not have such a rating the City would likely not consider them anyway.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Hitchcock second, unanimously adopted Resolution No. 2002-225 approving the City of Lodi’s annual investment policy and internal control guidelines; and included additional language: 1) on page 1, item 3, *Safety*, adding a clause regarding institutions willing to increase insurance, and 2) on page 7, item 12, *Purchase of CDs From Local Institutions*, specifying that participating financial institutions have a Community Reinvestment Act rating of satisfactory or better.

- E-9 “Adopt resolution awarding the bid for Parks and Recreation Tabloid booklet printing services to the low bidder, Commerce Printing Services, of Sacramento (\$6,939.10)”

City Manager Flynn reported that staff discovered an error in the bid process and is now recommending that the bids be rejected and authorization be given to re-advertise for bids.

Parks and Recreation Director Baltz explained that the instructions were not followed and a bid was faxed in to the Parks and Recreation Department office. Staff communication to the bidder was not clear that a sealed bid was required.

City Attorney Hays clarified that the fax was received well in advance of the bid opening date and it was not clear to the person who faxed it that they needed to send a sealed bid in.

Council Member Howard pointed out that the bid information is now public knowledge, so if the project is re-bid all of the previous bidders will already know what each other had bid previously.

Mayor Pennino stated that he would have preferred that the project be awarded to a local printer; however, he believed Council should award the bid to the low bidder as it is already public knowledge and it would be unfair to penalize Commerce Printing Services for the City's mistake.

Mr. Flynn elaborated further on what had occurred, explaining that staff had done research to find out the approximate cost of the project. When Duncan Press responded with a \$6,700 amount, staff realized it would have to bid the project. Staff informed Duncan Press of this and said the bid it submitted would be set aside and would be considered with the other bids once they were received. However, at the time the bids were opened they had forgotten to include Duncan Press'.

Mr. Baltz reported that letters were sent out to six different printers, three of which were in Lodi. The letters instructed the bidders to send their sealed bids to the purchasing office. Duncan Press did not follow the instructions and faxed its bid to the Parks and Recreation office. The staff member who received the faxed bid did not make it clear to them that the bid packet instructions required that sealed bids be sent and opened on a certain date by the Purchasing Officer.

Mr. Hays reiterated that at the time of the bid opening the faxed bid was not included.

**MOTION #1 / VOTE:**

Council Member Howard made a motion, Pennino second, to adopt a resolution awarding the bid for Parks and Recreation Tabloid booklet printing services to the low bidder, Commerce Printing Services, of Sacramento, in the amount of \$6,939.10. The motion **failed** by the following vote:

Ayes: Council Members – Howard and Mayor Pennino  
Noes: Council Members – Hitchcock, Land, and Nakanishi  
Absent: Council Members – None

**MOTION #2 / VOTE:**

The City Council, on motion of Mayor Pro Tempore Hitchcock, Land second, adopted Resolution No. 2002-226 rejecting all bids received for the Parks and Recreation Tabloid booklet printing services, and further authorizing re-advertising for bids. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Land, and Nakanishi  
Noes: Council Members – Howard and Mayor Pennino  
Absent: Council Members – None

- E-12 “Approve sublease agreement between Robert Mondavi Properties, Inc., and the City of Lodi for Well 10C site (790 North Guild Avenue); and approve plans and specifications and authorize advertisement for bids for the Well 10C drilling, and pump and motor installation; and authorize the City Manager to award the contract”

Mayor Pro Tempore Hitchcock asked why the property is not being purchased.

Public Works Director Prima reported that the City has had a need for a replacement well in this area for some time. The water main infrastructure is sparse. When the Robert Mondavi project came about it was seen as a good opportunity to pick up the site and

they have been very cooperative. A test well was drilled and results were satisfactory. Because ownership of the parcel involves trust relationships the property could not be sold. A 30-year lease with an option to renew at the City's discretion at fair market value rent is being proposed. The agreement provides a mechanism to determine the fair market value.

In answer to Council Member Howard regarding options, City Attorney Hays explained that Mondavi is the sub lessee not the owner. The owner is a distribution trust. The master lessor is agreeing to the sublease so it would be bound by the terms of it.

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Nakanishi second, approved the sublease agreement between Robert Mondavi Properties, Inc., and the City of Lodi Well 10C site (790 North Guild Avenue); and approved plans and specifications for the Well 10C drilling, and pump and motor installation and authorized advertisement for bids; and authorized the City Manager to award the contract. The motion carried by the following vote:

Ayes: Council Members – Howard, Land, Nakanishi, and Mayor Pennino  
Noes: Council Members – Hitchcock  
Absent: Council Members – None

J. ORDINANCES

- J-1 Ordinance No. 1718 entitled, "An Ordinance Of The Lodi City Council Amending Chapter 13.20 Electrical Service By Amending Sections 13.20.175, 13.20.190, 13.20.202, 13.20.240, 13.20.250, 13.20.260, 13.20.270, 13.20.080, and 13.20.310" having been introduced at a regular meeting of the Lodi City Council held October 16, 2002 was brought up for passage on motion of Council Member Howard, Land second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Howard, Land, and Mayor Pennino  
Noes: Council Members – Hitchcock and Nakanishi  
Absent: Council Members – None  
Abstain: Council Members – None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Mayor Pennino congratulated future Assembly Member Alan Nakanishi on his successful election race, as well as Susan Hitchcock for her successful reelection efforts as Council Member. He commented that there are still 2,100 votes yet to be counted in the Lodi Council Member election. He announced that a Veterans Day program has been scheduled for Monday.
- Council Member Nakanishi congratulated Susan Hitchcock and Larry Hansen for their Council Member election victories. He thanked the citizens of Lodi for their votes and reported that California has the sixth largest economy, 33 million people, and 80 Assembly Members. He was honored and humbled to be elected as Assembly Member and stated that he would be a voice for Lodi. He will be sworn into office on December 2.
- Council Member Land stated that he would be attending the Get Smart Zoning Code workshop in Lodi on December 6 and invited other Council Members to join him. A Northern California Power Agency (NCPA) hydroelectric swap was completed on October 29. The present value savings was 8.7%, which is equivalent to a \$4.8 million savings; Lodi's interest was 18%.
- Mayor Pro Tempore Hitchcock congratulated future Assembly representative Alan Nakanishi. She encouraged him to remember his roots and remain a strong voice for cities.

In answer to Mayor Pro Tempore Hitchcock, City Clerk Blackston confirmed that there are 2,100 absentee and provisional ballots in the Lodi City Council race yet to be counted. The

*Continued November 6, 2002*

County Registrar of Voters Office anticipated that absentee ballot results would be known by late next week. The Registrar has 28 days to certify the election results.

In reply to Council Member Nakanishi, Ms. Blackston reported that 55.4% of Lodi voters exercised their right to vote in the November 5 election.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn congratulated Susan Hitchcock on her reelection victory and reviewed the Veteran's Day celebration program.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:43 a.m., Thursday, November 7, 2002.

ATTEST:

Susan J. Blackston  
City Clerk